

SENATE BILL 956

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CF HB 645

By: **Senator Brinkley**

Introduced and read first time: February 14, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension Systems – New Hires – Cash Balance Defined**
3 **Benefit Plan**

4 FOR the purpose of establishing a cash balance plan under the State Retirement and
5 Pension System; requiring that certain individuals who are employed by certain
6 participating employers on or after a certain date become members of the cash
7 balance plan; providing that certain individuals are not eligible to participate in
8 the optional retirement program; requiring the Board of Trustees of the State
9 Retirement and Pension System to administer the cash balance plan; requiring
10 participating in the cash balance plan as a condition of employment for certain
11 individuals; providing the vesting requirements for participating employees in
12 the cash balance plan; requiring that employee contributions to the cash
13 balance plan be a certain amount and be made in a certain manner; requiring
14 certain participating employees of the cash balance plan to be a certain age with
15 a certain number of years of service as an eligible employee prior to receiving
16 certain distributions; requiring certain participating employees of the cash
17 balance plan who elect to receive certain distributions before reaching a certain
18 age with a certain number of years of service to wait until a certain time to
19 receive the distribution; providing for distribution of certain benefits from the
20 cash balance plan to a participating employee on retirement; providing that
21 certain participating employees in the cash balance plan may make certain
22 elections with regard to the method of distribution for certain benefits payable
23 under the cash balance plan; requiring the State to make certain employer
24 contributions to the cash balance plan in a certain manner; requiring the
25 Governor to include a certain amount in the annual State budget bill; defining
26 certain terms; making certain provisions of this Act subject to a certain
27 contingency; and generally relating to the establishment of a cash balance plan
28 for State employees and teachers.

29 BY repealing and reenacting, with amendments,
30 Article – State Personnel and Pensions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 23–203, 23–204(c), 23–208, and 30–302
 2 Annotated Code of Maryland
 3 (2009 Replacement Volume and 2011 Supplement)

4 BY adding to
 5 Article – State Personnel and Pensions
 6 Section 41–101 through 41–208 to be under the new title “Title 41. Cash
 7 Balance Plan”
 8 Annotated Code of Maryland
 9 (2009 Replacement Volume and 2011 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – State Personnel and Pensions**

13 23–203.

14 (A) Except as provided in § 23–204 of this subtitle, an individual described in
 15 § 23–201(a) of this subtitle who becomes an employee of a participating employer on or
 16 after January 1, 1980, **AND ON OR BEFORE JUNE 30, 2012**, or who transfers
 17 membership from the Employees’ Retirement System **ON OR BEFORE JUNE 30,**
 18 **2012**, is a member of the Employees’ Pension System as a condition of employment.

19 (B) **EXCEPT AS PROVIDED IN § 23–204 OF THIS SUBTITLE, AN**
 20 **INDIVIDUAL DESCRIBED IN § 23–201(A) OF THIS SUBTITLE WHO BECOMES AN**
 21 **EMPLOYEE OF A PARTICIPATING EMPLOYER ON OR AFTER JULY 1, 2012, OR**
 22 **WHO TRANSFERS MEMBERSHIP FROM THE EMPLOYEES’ RETIREMENT SYSTEM**
 23 **ON OR AFTER JULY 1, 2012, IS A MEMBER OF THE CASH BALANCE PLAN UNDER**
 24 **TITLE 41 OF THIS ARTICLE.**

25 23–204.

26 (c) (1) **[Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 27 **SUBSECTION AND SUBJECT to paragraph [(2)] (3) of this subsection, membership in**
 28 **the Employees’ Pension System is optional for an individual described in §**
 29 **23–201(a)(2)(iv) of this subtitle who is elected or appointed as the Baltimore City**
 30 **Sheriff ON OR BEFORE JUNE 30, 2012.**

31 (2) (I) An individual who is elected or appointed as the Baltimore
 32 City Sheriff **ON OR BEFORE JUNE 30, 2012**, and who does not elect to join the
 33 Employees’ Pension System is a member of the Law Enforcement Officers’ Pension
 34 System under Title 26 of this article as a condition of employment.

35 (II) **AN INDIVIDUAL WHO IS ELECTED AS THE BALTIMORE**
 36 **CITY SHERIFF ON OR AFTER JULY 1, 2012, AND WHO DOES NOT ELECT TO JOIN**

1 THE CASH BALANCE PLAN UNDER TITLE 41 OF THIS ARTICLE, IS A MEMBER OF
2 THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM UNDER TITLE 26 OF
3 THIS ARTICLE AS A CONDITION OF EMPLOYMENT.

4 (3) (I) To elect to be a member of the Employees' Pension System
5 ON OR BEFORE JUNE 30, 2012, under this subsection, an individual shall file a
6 written application with the State Retirement Agency.

7 [(4)] (II) An individual who does not elect membership within 6
8 months of the date the individual begins serving as the Baltimore City Sheriff shall
9 become a member of the Law Enforcement Officers' Pension System.

10 23-208.

11 (A) Except as provided in § 23-209 of this subtitle, an individual described in
12 § 23-206(a) of this subtitle who becomes employed by a participating employer on or
13 after January 1, 1980, AND ON OR BEFORE JUNE 30, 2012, or who transfers
14 membership from the Teachers' Retirement System ON OR BEFORE JUNE 30, 2012,
15 is a member of the Teachers' Pension System as a condition of employment.

16 (B) EXCEPT AS PROVIDED IN § 23-209 OF THIS SUBTITLE, AN
17 INDIVIDUAL DESCRIBED IN § 23-206(A) OF THIS SUBTITLE WHO BECOMES
18 EMPLOYED BY A PARTICIPATING EMPLOYER ON OR AFTER JULY 1, 2012, OR
19 WHO TRANSFERS MEMBERSHIP FROM THE TEACHERS' RETIREMENT SYSTEM
20 ON OR AFTER JULY 1, 2012, IS A MEMBER OF THE CASH BALANCE PLAN UNDER
21 TITLE 41 OF THIS ARTICLE.

22 30-302.

23 (a) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
24 SUBSECTION, AN election to participate in the program shall be made by an eligible
25 employee within 1 year of first becoming an eligible employee of an employing
26 institution.

27 (2) AN INDIVIDUAL WHO DOES NOT ELECT TO PARTICIPATE IN
28 THE PROGRAM ON OR BEFORE JUNE 30, 2012, IS NOT ELIGIBLE FOR
29 MEMBERSHIP IN THE PROGRAM.

30 (b) An eligible employee's election to participate in the program is a
31 one-time irrevocable election.

32 TITLE 41. CASH BALANCE PLAN.

33 SUBTITLE 1. DEFINITIONS.

1 **41-101.**

2 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "CASH BALANCE PLAN" MEANS A DEFINED BENEFIT PLAN
5 QUALIFIED UNDER THE INTERNAL REVENUE CODE THAT REQUIRES EMPLOYER
6 CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS EQUAL TO A FIXED
7 PERCENTAGE OF A PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE
8 COMPENSATION THAT ARE DEPOSITED INTO AN INTEREST BEARING ACCOUNT
9 AND ADMINISTERED BY THE BOARD OF TRUSTEES.

10 (C) (1) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL ELIGIBLE TO
11 PARTICIPATE IN THE CASH BALANCE PLAN.

12 (2) "ELIGIBLE EMPLOYEE" INCLUDES:

13 (I) A MEMBER OF THE FACULTY OF AN EMPLOYING
14 INSTITUTION;

15 (II) A PROFESSIONAL EMPLOYEE AT A COMMUNITY
16 COLLEGE OR REGIONAL COMMUNITY COLLEGE ESTABLISHED UNDER TITLE 16
17 OF THE EDUCATION ARTICLE;

18 (III) AN EMPLOYEE OF THE UNIVERSITY SYSTEM OF
19 MARYLAND WHO IS IN A POSITION DESIGNATED AS EXEMPT UNDER A POLICY
20 ADOPTED BY THE UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS;

21 (IV) AN EMPLOYEE OF MORGAN STATE UNIVERSITY WHO IS
22 IN A POSITION DESIGNATED AS PROFESSIONAL OR ADMINISTRATIVE BY THE
23 BOARD OF REGENTS OF MORGAN STATE UNIVERSITY;

24 (V) AN EMPLOYEE OF ST. MARY'S COLLEGE OF MARYLAND
25 WHO IS IN A POSITION DETERMINED BY THE BOARD OF TRUSTEES OF THE
26 COLLEGE TO BE A PROFESSIONAL OR FACULTY POSITION; OR

27 (VI) AN INDIVIDUAL WHO IS AN EMPLOYEE OF A
28 PARTICIPATING EMPLOYER AS:

29 1. A REGULAR EMPLOYEE WHOSE COMPENSATION IS
30 PROVIDED BY STATE APPROPRIATION OR PAID FROM STATE FUNDS;

1 **2. AN APPOINTED OR ELECTED OFFICIAL OF THE**
2 **STATE WHO IS APPOINTED OR ELECTED FOR A TERM OF OFFICE THAT BEGINS**
3 **ON OR AFTER JULY 1, 2012, INCLUDING:**

4 **A. A CLERK OF THE CIRCUIT COURT;**

5 **B. A REGISTER OF WILLS;**

6 **C. A STATE'S ATTORNEY; AND**

7 **D. A SHERIFF;**

8 **3. AN EMPLOYEE OF A DAY SCHOOL IN THE STATE**
9 **UNDER THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION**
10 **OR THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS EMPLOYED AS:**

11 **A. A CLERK;**

12 **B. A HELPING TEACHER;**

13 **C. A PRINCIPAL;**

14 **D. A SUPERINTENDENT;**

15 **E. A SUPERVISOR; OR**

16 **F. A TEACHER;**

17 **4. A LIBRARIAN OR CLERICAL EMPLOYEE OF A**
18 **LIBRARY THAT IS ESTABLISHED OR OPERATES UNDER THE EDUCATION**
19 **ARTICLE;**

20 **5. AN EMPLOYEE OF THE OFFICE OF THE SHERIFF**
21 **OF BALTIMORE CITY;**

22 **6. AN EMPLOYEE OR AGENT OF THE STATE RACING**
23 **COMMISSION AUTHORIZED BY § 11-207 OF THE BUSINESS REGULATION**
24 **ARTICLE;**

25 **7. A PERMANENT EMPLOYEE OF THE BOARD OF**
26 **SUPERVISORS OF ELECTIONS OF A COUNTY;**

1 8. A FULL-TIME MASTER IN CHANCERY OR IN
2 JUVENILE CAUSES WHO WAS APPOINTED ON OR AFTER JULY 1, 2012, IN ANY
3 COUNTY BY THE CIRCUIT COURT FOR THAT COUNTY;

4 9. A NONFACULTY EMPLOYEE OF THE BALTIMORE
5 CITY COMMUNITY COLLEGE; OR

6 10. A STAFF EMPLOYEE OF THE UNIVERSITY SYSTEM
7 OF MARYLAND, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE OF
8 MARYLAND.

9 (3) "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL
10 WHO, ON OR BEFORE JUNE 30, 2012, IS A MEMBER OF THE OPTIONAL
11 RETIREMENT PROGRAM UNDER TITLE 30 OF THIS ARTICLE.

12 (D) "PARTICIPATING EMPLOYEE" MEANS AN ELIGIBLE EMPLOYEE WHO
13 PARTICIPATES IN THE CASH BALANCE PLAN.

14 SUBTITLE 2. CASH BALANCE PLAN.

15 41-201.

16 THERE IS A CASH BALANCE PLAN.

17 41-202.

18 THE BOARD OF TRUSTEES SHALL ADMINISTER THE CASH BALANCE PLAN.

19 41-203.

20 (A) THE BOARD OF TRUSTEES SHALL ADOPT, IMPLEMENT, AND
21 MAINTAIN THE CASH BALANCE PLAN.

22 (B) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY
23 OUT THIS TITLE.

24 (C) A PARTICIPATING EMPLOYEE'S INTEREST IN THE CASH BALANCE
25 PLAN:

26 (1) SHALL BEGIN 3 YEARS AFTER THE PARTICIPATING EMPLOYEE
27 BECOMES AN ELIGIBLE EMPLOYEE;

1 **(2) SHALL BE 100% VESTED ON THE FIRST DAY OF THE FOURTH**
2 **YEAR AFTER THE PARTICIPATING EMPLOYEE BECOMES AN ELIGIBLE**
3 **EMPLOYEE; AND**

4 **(3) MAY BE DISTRIBUTED AS PROVIDED UNDER § 41-206 OF THIS**
5 **SUBTITLE.**

6 **41-204.**

7 **AN INDIVIDUAL IS A MEMBER OF THE CASH BALANCE PLAN AS A**
8 **CONDITION OF EMPLOYMENT IF THE INDIVIDUAL COMMENCES EMPLOYMENT AS**
9 **AN ELIGIBLE EMPLOYEE ON OR AFTER JULY 1, 2012.**

10 **41-205.**

11 **(A) A PARTICIPATING EMPLOYEE'S CONTRIBUTION RATE IS 5% OF THE**
12 **PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE COMPENSATION.**

13 **(B) THE PARTICIPATING EMPLOYEE CONTRIBUTIONS SHALL BE MADE**
14 **AS PAYROLLS ARE PAID BY PAYROLL DEDUCTION OR BY A REDUCTION IN**
15 **SALARY IN ACCORDANCE WITH THE INTERNAL REVENUE CODE AND AS**
16 **PROVIDED BY THE CASH BALANCE PLAN.**

17 **41-206.**

18 **(A) (1) A PARTICIPATING EMPLOYEE MAY RETIRE FROM THE CASH**
19 **BALANCE PLAN IF THE PARTICIPATING EMPLOYEE HAS ATTAINED AT LEAST AGE**
20 **62 AND AT LEAST 10 YEARS OF SERVICE AS AN ELIGIBLE EMPLOYEE.**

21 **(2) IF A PARTICIPATING EMPLOYEE ELECTS TO RETIRE BEFORE**
22 **ATTAINING AGE 62 AND HAVING 10 YEARS OF SERVICE, THE PARTICIPATING**
23 **EMPLOYEE MAY NOT RECEIVE ANY DISTRIBUTION UNDER SUBSECTION (C) OF**
24 **THIS SECTION UNTIL JULY 1 FOLLOWING THE NEXT ACTUARIAL EVALUATION**
25 **FOLLOWING THE PARTICIPATING EMPLOYEE'S ELECTION.**

26 **(B) ON RETIREMENT UNDER THIS SECTION, A PARTICIPATING**
27 **EMPLOYEE SHALL RECEIVE A DISTRIBUTION UNDER SUBSECTION (C) OF THIS**
28 **SECTION THAT EQUALS THE PARTICIPATING EMPLOYEE'S ACCOUNT WITH 5%**
29 **INTEREST COMPOUNDED ANNUALLY FOR EACH YEAR OF SERVICE AS AN**
30 **ELIGIBLE EMPLOYEE.**

31 **(C) BENEFITS UNDER THE CASH BALANCE PLAN:**

1 **(1) SHALL BE PAYABLE TO A PARTICIPATING EMPLOYEE AS:**

2 **(I) A LUMP SUM PAYMENT; OR**

3 **(II) AN ANNUITY BEGINNING AT THE TIME OF RETIREMENT**
4 **OF THE PARTICIPATING EMPLOYEE WITH:**

5 **1. NO SURVIVOR BENEFIT;**

6 **2. A 100% JOINT AND SURVIVOR BENEFIT; OR**

7 **3. A 50% JOINT AND SURVIVOR BENEFIT; AND**

8 **(2) SHALL BE PAYABLE IN ACCORDANCE WITH THE INTERNAL**
9 **REVENUE CODE AND AS PROVIDED BY THE CASH BALANCE PLAN.**

10 **41-207.**

11 **ON BEHALF OF EACH PARTICIPATING EMPLOYEE WHO MAKES**
12 **CONTRIBUTIONS UNDER § 41-205 OF THIS SUBTITLE, THE STATE SHALL**
13 **CONTRIBUTE 5% OF THE PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE**
14 **COMPENSATION.**

15 **41-208.**

16 **THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET BILL AN**
17 **APPROPRIATION THAT IS SUFFICIENT TO PAY THE EMPLOYER CONTRIBUTIONS**
18 **FOR PARTICIPATING EMPLOYEES REQUIRED UNDER § 41-207 OF THIS**
19 **SUBTITLE.**

20 **SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1,**
21 **2012, the State Retirement Agency shall request a private letter ruling from the**
22 **Internal Revenue Service that confirms:**

23 **(1) the qualification under § 401 of the Internal Revenue Code of the**
24 **cash balance plan established under Section 1 of this Act;**

25 **(2) the continued pretax qualification under § 414(h)(2) of the Internal**
26 **Revenue Code of a member's contributions under the cash balance plan established**
27 **under Section 1 of this Act;**

28 **(3) that a distribution from a member's account under the cash**
29 **balance plan established under Section 1 of this Act constitutes an eligible rollover**
30 **distribution under the Internal Revenue Code.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
2 take effect contingent on the receipt of a private letter ruling by the Internal Revenue
3 Service that makes the confirmations specified under Section 2 of this Act. If a private
4 letter ruling by the Internal Revenue Service is received that makes the confirmations
5 specified under Section 2 of this Act, Section 1 of this Act shall take effect the first day
6 of the month after the State Retirement Agency receives the ruling. If a private letter
7 ruling is received by the State Retirement Agency from the Internal Revenue Service
8 that does not make all of the confirmations specified in Section 2 of this Act, Section 1
9 of this Act, with no further action required by the General Assembly, shall be null and
10 void and of no force and effect. The State Retirement Agency, within 5 days after
11 receiving the ruling from the Internal Revenue Service, shall forward a copy of the
12 ruling to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland
13 21401.

14 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
15 of Section 3 of this Act, this Act shall take effect July 1, 2012.